

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 02-0240**  
**Sales and Use Taxes**  
**Calendar Years 1999 and 2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

I. **Sales Tax** – Sales Tax Collected on Sales of Autos

**Authority:** 45 IAC 2.2-6-8; 45 IAC 6-8.1-5-1 (a)

Taxpayer protests the sales tax on auto sales it did not make.

**STATEMENT OF FACTS**

Taxpayer was audited for calendar years 1999 and 2000. Upon audit it was discovered that the taxpayer failed to remit all of the sales tax collected. The audit was based upon the Bureau of Motor Vehicle's "Summary by Short Dealer" that lists the titles and the sales tax collected. Because the BMV sales tax did not agree with the sales tax remitted to the Indiana Department of Revenue, the difference was assessed in the audit. It is noted that specific car transactions were identified after the auditor presented his initial findings that limited the variance from year-end totals to specific transactions. The taxpayer's research also reduced the potential assessment.

A hearing was scheduled for June 3, 2002, which the taxpayer cancelled. Taxpayer had approximately fifty titles that it believes were assessed tax in error. A hearing was rescheduled for October 29, 2002. At hearing, the taxpayer was given additional time to review thirty-one titles it believed were not his.

On January 28, 2003, Taxpayers met with the hearing officer. Taxpayer states that \$2,850.75 in tax was for sales it did not make. Taxpayer further states it called everyone possible and had written letters and can find no one who owns up to these sales.

The hearing officer has reviewed the contested titles and found that each listed the dealer's number, some appeared to have the same handwriting as those not contested, the certificates of title showed that title transferred to the taxpayer. Taxpayer and the hearing officer have not been able to verify that the sales were not made.

Based upon the letter of protest, the hearing officer tried to resolve the matter but was unable to determine from the information given that the assessments are in error. The burden of proof is upon the taxpayer and not the Department.

**I.     Sales Tax – Sales Tax Collected on Auto Sales**

**DISCUSSION**

Taxpayer's audit was based upon information from the BMV's "Short Dealer" records. The audit assessed sales tax for items shown on the short dealer records that had no sales tax remitted to the Department of Revenue.

In reviewing the audit report and the file, it is noted that the assessment stems from BMV's "Short Dealer" records and the taxpayer had numerous opportunities to provide additional information. Taxpayer provided nothing to aid in the resolution of the audit because it could not prove that the sales were not made in the course of its business.

**FINDING**

Taxpayer's protest is denied.